



EX PARTE OR LATE FILED

March 30, 1999

EX PARTE PRESENTATION

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

RECEIVED
MAR 30 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: *In the Matter of CC Docket No. 96-128: Implementation of the Pay Telephone
Reclassification and Compensation Provisions of the Telecommunications Act
of 1996; NSD-L-98-147: SBC, Including SNET, Compliance with Coding
Digit Requirement; Petitions filed December 9, 1998*

Dear Madam Secretary:

Attached for filing with the Commission in the above referenced proceeding, is a letter dated March 30, 1999 from Jeffery Thomas, Attorney for SWBT, Pacific Bell, Nevada Bell, and SNET to Anna Gomez, Chief Network Services Division of the Common Carrier Bureau of the Federal Communications Commission.

Please include this letter and any attachments in the record of these proceedings in accordance with Section 1.1206(a)(2) of the Commission's Rules.

Acknowledgment and date of receipt of this transmittal are requested. A duplicate transmittal letter is attached for that purpose.

Please contact the undersigned should you have any questions.

Respectfully submitted,

No. of Copies rec'd 01
List A B C D E

EX PARTE OR LATE FILED



March 30, 1999

Jeffrey B. Thomas
Senior Counsel

Southwestern Bell Telephone
One Bell Plaza, Room 3043
Dallas, Texas 75202
Phone: 214-464-4490
Fax: 214-464-5493

EXPARTE

Ms. Anna M. Gomez, Chief
Network Services Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

RECEIVED
MAR 30 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Gomez:

Re: In the Matter of CC Docket No. 96-128: Implementation of the Pay Telephone
Reclassification and Compensation Provisions of the Telecommunications Act of 1996;
NSD-L-98-147: SBC, Including SNET, Compliance With Coding Digit Requirement;
Petitions filed December 9, 1998

Southwestern Bell Telephone Company ("SWBT"), Pacific Bell, Nevada Bell, and Southern New England Telephone ("SNET") (collectively referred to as "SBC"¹) submit the following information to assist the FCC in its further considerations of the above matter. Upon further review of the Orders in CC Docket 96-128, SBC has concluded that it is fully compliant with the FCC's requirements for provision of payphone-specific coding digits, without making the changes discussed in the December 9, 1998 Petitions.

The FCC's requirement is that payphones be able to transmit payphone-specific coding digits to IXCs via payphone lines. In the *First Report and Order*, the FCC required that payphone-specific coding digits be passed within the ANI on "each payphone."² In the *Reconsideration Order*, the FCC said that "...to be eligible for such compensation, payphones will be required to transmit specific payphone coding digits as a part of their

¹ In this matter, SWBT, Pacific Bell, and Nevada Bell filed one Petition. SNET filed a separate Petition. This letter is filed on behalf of all these Companies, which are referred to as "SBC."

² *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, *Report and Order*, 11 FCC Rcd 20,541, para. 98 (1996) ("*First Report and Order*").

ANI, which will assist in identifying them to compensation payors. Each payphone must transmit coding digits that specifically identify it as a payphone, and not merely as a restricted line."³ In the March 9, 1998 FLEX ANI Order, the Bureau stated that, because LECs identified trouble transmitting the digits even when FLEX ANI is available for a payphone, LECs were required to report "which end offices and payphone ANIs are 'coding-digit-capable.' A payphone is 'coding digit capable' when it is able to transmit payphone-specific coding digits that are capable of reaching an IXC point of presence for subscriber 800 and access code calls from payphones using 10XXX and 101XXXX."⁴ Thus, the Bureau did not require reporting on passage of the digits by specific call type (e.g., 800 to POTS) and defined "coding digit capable" only in terms of general subscriber 800 and access code calls. The Bureau stated that the FCC contemplated that the payphone-specific coding digits would be sent over payphone lines.⁵

Last year, SBC implemented FLEX ANI on all payphone lines in all end offices. Accordingly, all of the payphones connected to SBC's networks are coding digit capable. SBC's payphone lines connected to all payphones are able to transmit payphone-specific coding digits to IXCs' points of presence. IXCs have been ordering FLEX ANI from SBC since last year, and some have ordered it widely throughout SBC's territories. Accordingly, SBC is in full compliance with the FCC's requirement – as established by the FCC and as explained by the Bureau.

The FCC never ordered the LECs to implement FLEX ANI on all types of calls (e.g., 800 to POTS calls) but on all payphones via payphone lines. This requirement is clear not only in the orders discussed above that were aimed at LECs, but also in the later *AT&T Per-call Compensation Waiver Order*. The Bureau concluded that the waiver it granted "to allow IXCs to pay per-phone compensation when payphone-specific coding digits are not available from a payphone is necessary to ensure that PSPs receive fair compensation while LECs, PSPs, and IXCs transition to providing and receiving payphone-specific coding digits to identify calls from payphones."⁶ Thus, the transition

³ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, *Order on Reconsideration*, 11 FCC Rcd 21,233, para. 64 (emphasis added) (1996) ("*Reconsideration Order*").

⁴ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, *Memorandum Opinion and Order*, 13 FCC Rcd 4998 at para. 36 ("*Bureau Coding Digit Waiver Order*"). (10XXX capability was replaced in September of last year.)

⁵ *Id.* at para. 33.

⁶ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, *Memorandum Opinion and Order*, 13 FCC Rcd 10893, para. 2 (1998).

that the FCC was concerned about was the transition to the time when payphone-specific coding digits would be available from all payphones – not necessarily from all types of calls – via payphone lines. Throughout the Order, the Bureau repeated this FCC concern with attaining the goal of availability of such coding digits from each payphone.⁷ The FCC never veered from this practical goal.

The FCC's practical goal properly did not penalize LECs for the fact that FLEX ANI is an imperfect means to identify some types of calls for payphone compensation. This imperfection is not the LECs' fault (IXCs, not LECs, supported FLEX ANI as the means to provide coding digits⁸), and the imperfections do not mean that LECs are out of compliance. Nonetheless, at least some LECs took a particularly forthright view that they should try to not merely meet the FCC's requirement but should do what they reasonably could to make FLEX ANI a better identification method for compensation of payphone calls. To do this, SBC took on the responsibility to make FLEX ANI function on types of calls for which FLEX ANI originally failed (e.g., 800 to CIC calls that represented approximately 7-9% of all of SWBT's, Pacific Bell's, and Nevada Bell's payphone calls). Accordingly, SBC and some other LECs conservatively requested and received waivers to allow them to meet these goals. SBC continued improving FLEX ANI until it found that there was no ascertainable benefit to making more adjustments, and that the costs of additional adjustments would be substantial.⁹ SBC's zeal to make FLEX ANI work as well as is reasonably possible certainly does not mean that SBC is out of compliance for not achieving theoretical perfection.

When samples revealed that 800 to POTS calls might affect the identification of one 800 call out of ten million and would not prevent the payment of compensation on even that one call,¹⁰ it was clear that SBC already had gone as far as it should – far beyond the actual FCC requirement, but within the realm of reasonable costs and benefits to further the FCC's goals.

The other potential "problem" SBC identified, tandem screening, does not raise an

⁷ *Id.* at paras. 2, 9, 10, 12, 17, 20, and 21.

⁸ *See, e.g., First Report and Order* at para. 98.

⁹ SBC currently estimates the costs of fixing the 800-to-POTS problem, both for internal work (e.g., switch translations) and for payments to vendors for generic switch upgrades, to be in excess of \$17 million.

¹⁰ Of the 10,510,137 queries examined in the two samples, only one query was for an 800 to POTS call that went to an IXC. That IXC could use an ANI list to provide compensation on that call. The other 10,510,136 queries were for other 800 calls or 800 to POTS calls that went to SWBT's own 800 service, for which SWBT provided, and will continue to provide, payphone compensation as applicable without using FLEX ANI. See Reply Comments, at pages 2-4, by SWBT, Pacific Bell, and Nevada Bell, filed February 5, 1999 in this proceeding.

issue concerning compliance with the requirement to pass payphone-specific coding digits. SBC passes to IXCs any FLEX ANI digits that arrive at the tandems.¹¹

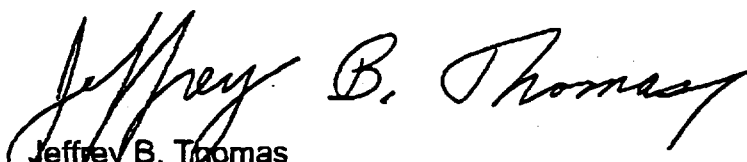
The costs of implementing FLEX ANI are to be recovered in the LEC's tariffs.¹² SWBT, Pacific Bell, and Nevada Bell currently have such tariffs in place, with charges to PSPs. If the FCC finds that SBC is in compliance, SBC would adjust current tariffed rates to PSPs to reduce cost recovery by the appropriate amount.¹³

SBC is in full compliance with the FCC's payphone-specific coding digit requirement, and the public interest would be served by reducing costs to the industry in this way. Accordingly, SBC requests that the Commission confirm that SBC is in compliance with the payphone-specific coding digit requirement.

SBC will serve this letter on all parties of record.

In accordance with 47 C.F.R. section 1.1206(a)(1) of the Commission's rules, the original of this letter and one copy are being filed with your office for inclusion in the public record. Acknowledgement and date of receipt are requested. A duplicate of this letter is included for this purpose.

Sincerely,



Jeffrey B. Thomas

Attorney for SWBT, Pacific Bell, Nevada Bell, and SNET

CC: Kurt Schroeder
Marty Schwimmer
Robin Smallen
All Parties

¹¹ The screening SBC refers to in its Petition would simply allow SBC to exclude the FLEX ANI digits at the tandem when they have not been requested, on calls that are not screened at the end office. As IXCs expand their requests for FLEX ANI, the benefit of screening disappears. See Reply Comments, at pages 4-6, by SWBT, Pacific Bell, and Nevada Bell, filed February 5, 1999 in this proceeding.

¹² SWBT Tariff F.C.C. No. 73, Pacific Bell Tariff F.C.C. No. 128; Nevada Bell Tariff No. 1.

¹³ If the FCC does not find SBC to be in compliance and requires SBC to fix the "problems" that SBC identified, SBC expects to need to seek additional cost recovery because the cost of fixing the 800-to-POTS "problem" is significantly higher than expected.